

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
EUREKA DIVISION

LUIS ALVAREZ,
Petitioner,

v.

ROB ST. ANDRE,
Respondent.

Case No. 23-cv-03002-RMI

**ORDER TO SHOW CAUSE RE:
PETITION FOR WRIT OF HABEAS
CORPUS**

Re: Dkt. No. 1

After a trial in the Santa Clara Superior Court, Petitioner was convicted of first-degree murder on December 3, 2018, following which, on April 23, 2019, the court imposed a sentence of twenty-five years to life. *See* Pet. (dkt. 1) at 5. Petitioner then timely appealed and, on May 23, 2022, the appellate court issued affirmed the conviction and sentence. *Id.* Petitioner is currently incarcerated at the High Desert State Prison in Susanville, California. *Id.* at 4.

Thereafter, Petitioner, represented by counsel, initiated this habeas action pursuant to 28 U.S.C. § 2254. The court has reviewed the § 2254 Petition and has determined that it warrants a response from Respondent. Accordingly, the court **ORDERS** Respondent to show cause why the Petition should not be granted as follows:

1. Petitioner shall serve, by certified mail, a copy of this Order and the Petition and all attachments thereto upon Respondent and upon the Attorney General for the State of California. Promptly thereafter, Petitioner shall file a certification of service on the docket of this case.
2. Respondent shall file with the court and serve on Petitioner, within 60 days of the date of service, an Answer conforming in all respects to Rule 5 of the Rules Governing Section

2254 Cases, showing cause why a writ of habeas corpus should not be issued. Respondent shall file with the Answer and serve on Petitioner a copy of all portions of the underlying state criminal court records that are relevant to a determination of the issues presented by the Petition.

3. If Petitioner wishes to respond to the Answer, he shall do so by filing a Traverse with the court and serving it on Respondent within 30 days of his receipt of the Answer.
4. Respondent may file a motion to dismiss on procedural grounds in lieu of an Answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases. If Respondent files such a motion, Petitioner shall file with the court and serve on Respondent an opposition or statement of non-opposition within thirty (30) days of receipt of the motion. Respondent may file with the court and serve on Petitioner a reply within fifteen (15) days of receipt of any opposition.

IT IS SO ORDERED.

Dated: February 14, 2024



ROBERT M. ILLMAN
United States Magistrate Judge